

The 19th Pausa, 1935 (S. E.)

**THE HIGH COURT OF MEGHALAYA
SHILLONG**

NOTIFICATION

The 17th December, 2013.

THE FAMILY COURTS (HIGH COURT OF MEGHALAYA) RULES 2013

No.HCM.II/430/2013/6016. - In exercise of the powers conferred by Section 21 of the Family Courts Act, 1984, the High Court of Meghalaya is pleased to make the following Rules, namely:-

- 1. Short title, commencement and application** – (1) These Rules may be called the Family Courts (High Court of Meghalaya) Rules 2013.
(2) These Rules shall come into force with effect from the date of publication in the Official Gazette.
(3) These Rules shall apply to the Family Courts established in the State of Meghalaya.
- 2. Definition.** – In these Rules, unless the context otherwise requires-
 - (a) "Act" means the Family Courts Act, 1984;
 - (b) "Court" means the Family Courts established under Section 3 of the Act;
 - (c) "High Court" means the High Court of Meghalaya;
 - (d) "Institution" means any Institution or Organisation engaged in social welfare and registered under the Societies Registration Act, 1860;
 - (e) All other words and expressions used but not defined in the Act, or in the Family Courts Rules of the respective State Governments under the Jurisdiction of High Court of Meghalaya or in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973, shall have the meanings respectively assigned to them in the Act and the Rules or, as the case may be, in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973.

3. Working hours. – (1) The normal working hours of the Court shall be from 10.30 A.M. to 4.00 P.M. with a recess break from 1.00 P.M. to 1.30 P.M.

(2) The Judge may, for expedience, hold proceedings of the Court beyond the working hours as prescribed in Sub-rule (1) above, and even on holidays:

Provided that no such proceedings shall be held under this sub-rule except without the consent of the parties of the proceedings.

4. Place of Sitting. – The Judge of the Family Court may hold sittings at places other than the ordinary place of sitting in consultation held with the Counsellors and the parties to the proceeding;

5. The Provisions of the Legal Aid Scheme may be invoked in appropriate cases in the proceedings under the Act.

6. Institution of Proceedings. – All proceedings instituted before the Family Court will be by way of a petition. However, in respect of applications under Chapter IX of the Criminal Procedure Code 1973 the provisions of that Code shall apply.

7. The petition or any other application shall be filed in duplicate before an Officer designated by the Court for the purpose who shall deliver a copy of such petition or application to the Counsellor.

8. Proceeding for summons, etc. – In all proceedings other than the Act the writ of summons to appear and answer shall be in the appropriate forms prescribed for Civil and Criminal Courts by the High Court with such modifications as may be considered necessary and expedient by the Court.

9. All writs of summons, Rules, Orders, warrants and other processes shall be signed by the designated officer of the Court and shall bear the seal of the Court.

10. A writ of summons shall be served in the manner prescribed in the Code of Civil Procedure, save and except the proceedings under Chapter IX of the Code of Criminal Procedure where the provisions of that Code will apply.

11. Counselling. – On the returnable date of the summons, the Judge shall, on the same day, or, on any subsequent date, in consultation with the Counsellor, direct the parties to the proceeding to attend the Counsellor for the purpose of the counselling:

Provided that the Judge, while briefing the Counsellor, shall bear in mind the nature of dispute, the convenience of the parties, the special requirements of the case in hand and other ancillary matters.

12.The Counsellor appointed to counsel the parties shall fix the time and date of appointment. The parties shall be bound to attend the Counselling on the date and at the time so fixed.

13.If either of the parties fails to attend the Counselling on the date and time so fixed, the Counsellor may fix another date and shall communicate the same to the absentee party by Email, Fax or the registered post. In case of default by either of the parties on the adjourned date, the Counsellor shall submit a report to the Court and on receipt of such report, the Court may proceed with the matter in absence of the defaulting party without prejudice to other powers of the Court to take action against the defaulting parties.

14.The Counsellor entrusted with any petition, on the appearance of the parties before him, shall assist and advise the parties regarding the settlement of the subject matter of dispute and shall endeavour to help the parties in arriving the conciliation.

15.(1) The Counsellor may, in discharge of his duties, visit the home of either of the parties and interview the relatives, friends and acquaintances of either of the parties;

(2) The Counsellor in discharge of his duties, may also seek such information as he deems fit from the employer of either of the parties and such requisition for information shall be made through the Court.

(3)The Counsellor may take the assistance of any organisation, institution or agency in discharge of his duties.

16.The Counsellor shall submit a report to the Court as and when called for, to assist the Court in deciding the case in hand. The report may, inter alia, contain the following points:-

- (a) Living environment of the parties concerned.
- (b) Personalities.
- (c) Relationship.
- (d) Income and standard of living.
- (e) Status in society.
- (f) Counsellor's opinion and findings.

17.The Counsellor may also supervise the child/children if and when called upon by the Court.

18. Confidentiality of information. – Information gathered by the Counsellors or any statement made before the Counsellor or any notes or report prepared by the Counsellor shall be treated as confidential and the Counsellor shall not be called upon to disclose such information, statement, notes or report to any Court except with the consent of both the parties.

19. Signature of settlement. – When the parties arrive at a settlement before the Counsellor relating to the dispute or any other part thereof, such settlement shall be reduced into writing and shall be signed by the parties and countersigned by the Counsellor.

20.The Proceedings before the Court shall be heard and disposed of as expeditiously as possible, and preferably within 3 months, and in achieving this objective the Rules or procedure may not be rigidly adhered to.

21. High Court's to supervises etc. – For carrying out the purposes of the Act and for ensuring the uniformity of practice to be observed by the Family Courts and for expeditious disposal, the High Court may from time to time, supervise and inspect the Family Courts and issue directions/ circulars etc. to the Family Courts.

22. Periodical returns. – The Family Courts shall submit to the High Court such periodical returns and statistical information as may be called for from time to time.

By Order,

REGISTRAR GENERAL

The 17th December, 2013.

HIGH COURT OF MEGHALAYA SPECIAL MARRIAGE RULES, 2013
RULES TO REGULATE PROCEDURE UNDER
THE SPECIAL MARRIAGE ACT, 1954
(CENTRAL ACT NO.43 OF 1954)

No.HCM.II/430/2013/6017. - In exercise of powers conferred by Section 41 of the Special Marriage Act, 1954 (Central Act No.43 of 1954) and all other powers enabling in this behalf, the High Court of Meghalaya makes the following Rules.

1. Short title. – These Rules may be called the High Court of Meghalaya Special Marriage Rules, 2013.

2. Commencement. – These Rules shall come into force from the date of their publication in the Gazette.

3. Definitions. – In these Rules, unless there is anything repugnant in the subject or context:-

(i) "Act" means the Special Marriage Act, 1954 as from time to time modified or amended.

(ii) "Code" means the Code of Civil Procedure, 1908 as from time to time modified or amended.

(iii) "Court" means the court mentioned in Section 2 (e) of the Act.

(iv) "Form" means a form prescribed in the Act or appended to these rules.

(v) All other terms and expressions used herein but not defined shall have the meaning respectively assigned to them in the Act.

4. Petitions to be accompanied by a certificate of marriage. – Every petition made under the Act shall be accompanied by a certified copy of the certificate of marriage entered in the Marriage Certificate Book about the solemnization of the Marriage under the Act, unless the certificate is already on the record or is for sufficient cause, dispensed with by the court.

5. Forms of proceedings. – The following proceedings under the Act shall be initiated by petitions:-

(i) under Section 22 for restitution of conjugal rights;

- (ii) under sub-section (1) of Section 23 for Judicial separation;
- (iii) under sub-section (2) of Section 23 for rescinding a decree for Judicial separation;
- (iv) under sub-section (1) of Section 24 for declaring a marriage null and void;
- (v) under sub-section (2) of Section 24 for declaring the registration of a marriage to be of no effect;
- (vi) under Section 25 for annulment of marriage by a decree of nullity;
- (vii) under Section 27 for divorce;
- (viii) under Section 28 for divorce by mutual consent;
- (ix) under Section 38 for making, revoking, suspending or varying orders and provisions with respect to the custody, maintenance and education of minor children.

6. Petition by or against a person suffering from mental disorder. – A person suffering from mental disorder will be treated in all respects as a person of unsound mind for the purpose of Order XXXII of the Code.

7. Contents of petition. – In addition to the particulars required to be given under Order VII Rule 1 of the Code and Section 32 of the Act, every petition for Judicial separation, nullity of marriage or divorce shall contain the following particulars:-

- (a) The place and date of Marriage.
- (b) The name, status and domicile of the wife and the husband before the marriage and at the time of filing the petition.
- (c) The address where the parties to the marriage reside at the time of the presentation of the petition and last resided together.
- (d) Where the wife petitioner invokes Section 21 (2) of the Act, the address at which she has ordinarily resided during the three years immediately preceding the presentation of the petition, and the length of her residence at each address, and the place of residence of the husband.
- (e) The names of the children, if any of the marriage, their sex and their date of birth of ages.

- (f) If prior to the date of the petition there has been any proceeding under the act between the parties to the petition, full particulars thereof.
- (g) the matrimonial offence or offences alleged or other grounds upon which the relief is sought, setting out with sufficient particularity the time and places of the act alleged, and other facts relied upon, but not the evidence by which they are intended to be proved e.g.:-
- (i) If the petition is for restitution of conjugal rights, the date on or from which and the circumstances under which the respondent withdrew from the society of the petitioner.
 - (ii) If the petition is under Section 25 (ii) of the Act, whether the Petitioner was, at the time of the marriage ignorant of the facts alleged and whether marital intercourse with the consent of the petitioner has taken place since the discovery by the petitioner of the existence of the grounds for a decree.
 - (iii) If the petition under Section 25 (iii) of the Act, the particulars of coercion or fraud and the circumstances in which coercion or fraud had been practiced alongwith the time when coercion ceased or the fraud was discovered and whether or not the Petitioner has with his or her free consent lived with the other party to the marriage as husband and wife after the coercion had ceased or, as the case may be, the fraud had been discovered;
 - (iv) If the Petitioner is for Judicial separation/divorce on the ground of adultery, the name , occupation and place of residence of adulterer/adulteress or adulterers/adulteresses, as the case may be, so far as they can be ascertained;
 - (v) If the petition is on the ground of desertion, the date and the circumstances in which it began;
 - (vi) If the petition on the ground of cruelty the specific acts of cruelty and the occasion when and the place where such acts were committed;
 - (vii) If the petition is on the ground of unsoundness of mind or mental disorder, the time when such unsoundness of mind or mental disorder began to manifest itself and the nature and the period of the curative steps taken;
 - (viii) If the petition is on the ground of venereal disease in a communicable form or leprosy, when such ailment began to manifest itself and the nature and the period of the curative steps taken;

- (ix) If the petition is on the ground specified in clause (h) of Section 27 of the Act, the date and the place where the respondent was last seen or heard of alive and the step, if any, taken to ascertain his or her whereabouts;
 - (x) If the petition is founded on the ground of bestiality the occasion when, the place where and the particulars of the beast with whom the husband is guilty of bestiality;
 - (xi) If the petition is for divorce under Section 27 (IA) (ii) of the Act, the particulars of the order under Section 125 of the Code of Criminal Procedure, 1973 together with an affidavit that since the passing of such decree or order, cohabitation between the parties had not been resumed for one year or upwards;
 - (xii) If the petition is under Section 28 of the Act, the date since when the parties have been living separately and whether, or not they have been able to live together and whether the mutual agreement dissolving the marriage is verbal or evidenced by a document in writing.
- (h) Every petition under Chapter V or Chapter VI of the Act shall state that there is no collusion between the petitioner and the other party to the marriage.
- (i) The claim for damages, if any, with particulars.
 - (j) the relief or reliefs prayed for.

8. Affidavit of non-collusion. – Every petition under Chapter V or Chapter VI of the Act shall be accompanied by an affidavit to the effect that it is not presented in collusion with the Respondent. If the petition is founded on the ground specified in clause (a) of sub-section (1) of Section 27, it will also state that the Petitioner has not in any manner been accessory to or connived at the act or acts of sexual intercourse complained of.

9. Affidavit of non-condonation. - Where the petition is founded on the ground specified in clause (a) of sub-section (1) of Section 27 of Act or where ground of the petition is cruelty, the petition shall be accompanied by an affidavit to the effect that the Petitioner has not condoned that act or acts complained of or has not in any manner condoned the cruelty.

10. Affidavit in the petition on the ground of mutual consent. – Where divorce is sought on the ground of mutual consent, the petition shall be accompanied by an affidavit to the effect that such consent has not been obtained by force, fraud or undue influence.

11. Affidavit of non-cohabitation. – Every petition under Section 27 (2) (1) shall be accompanied by an affidavit made by Petitioner that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for Judicial separation in a proceeding to which they were parties.

12. Affidavit of non-restitution of conjugal rights. - Every petition under Section 27 (2) (ii) shall be accompanied by an affidavit made by the Petitioner of the facts that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or upwards after the passing of decree for restitution of conjugal rights in a proceeding to which they were parties.

13. Necessary parties. – (a) In every petition for divorce/judicial separation on the ground that the Respondent has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, the Petitioner shall make the alleged adulterer or adulteress as a co-respondent to the petition. The petitioner may, however, apply to the court on application supported by an affidavit, for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds:

(i) That the name of such person is unknown to the petitioner although he/she has made due efforts for discovery;

(ii) That such person is dead;

(iii) That the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom the voluntary sexual intercourse has been committed, or

(iv) Any reason that the court consider sufficient.

(b) In every petition under Section 24 of the Act on the ground that the condition specified in clause (a) of Section 4 has not been fulfilled, the petitioner shall make the spouse, alleged to be living at the time of marriage, a co-respondent.

14. Application for leave under Section 29 of the Act. – (1) In support of an application for leave under Section 29 of the Act there shall be filed an affidavit by an applicant stating the grounds on which the application is made particulars of the exceptional hardship or exceptional depravity alleged, whether there has been any previous application under the said section, whether there are any living children of the marriage, and if so, the names and dates of birth or ages of such children, their sex, where and with whom they are residing, whether any, and if so, what attempts

at reconciliation have been made and any circumstances which may assist the court to determine the question whether there is reasonable probability of reconciliation between the parties.

(2) Notice of the application shall be given to the respondent who may contest the same by filing affidavit in opposition.

(3) In exceptional circumstances the court may, if necessary, order a deponent to be cross-examined on his or her affidavit.

(4) The application shall be accompanied by the petition intended to be filed.

(5) when the court grants leave, the petition shall be deemed to have been duly filed on the date of the said order provided proper court fee thereon is paid within the time allowed by the court .

15. Notices. – The court shall issue notice in form 'A' accompanied with a copy of the petition to the respondent and co-respondent, if any. The notice shall require, unless the court otherwise directs, the respondent or co-respondent to file his or her written statement in court on or before the date fixed in the notice.

16. Counter claim. – Where a counter claim is made in term of Section 23-A it shall comply with the Rules applicable to petitions on the like grounds.

17. Damages and costs against co-respondent. – (1) Whenever in any petition presented by a husband, the person alleged to have committed adultery has been made a co-respondent and the charge of adultery has been established, the court may order the co-respondent to pay the whole or any part of the costs of the proceedings:

Provided that the co-respondent shall not be ordered to pay the petitioners costs:

(a) if the respondent was, at the time of adultery living apart from her husband and was leading the life of a prostitute, or

(b) if the co-respondent had not, at the time of voluntary sexual intercourse, reason to believe the respondent to be a married woman.

(2) The award of the costs shall be in the discretion of the court and the court shall make an order of the same while passing the decree.

(3) Whereas damages are claimed, the Court shall assess the same and direct in what manner the damages if any, awarded shall be paid or applied.

(4) The court may assess damages and make an order for payment thereof or of costs notwithstanding that the respondent or co-respondent or both of them have remained ex-parte.

18. Application for alimony and maintenance. – Every application for maintenance pendent-lit, permanent alimony and maintenance or for custody, maintenance and education expenses of minor children shall be supported by an affidavit and shall state the average monthly income of the Petitioner and the Respondent, the sources of their income, particulars of other moveable and immoveable property owned by them jointly or severally, the details of their liabilities, if any alongwith the number of their dependents if any, and the names and ages of such dependents.

19. Supply of certified copy of the decree of the parties. – (1) In every case where a marriage is dissolved by a decree of divorce the court passing the decree shall give a copy thereof free of cost to each of the parties. The copy so supplied shall be authenticated as "True Copy" by the court passing the decree.

(2) The Court shall maintain a Register where the particulars of the decree shall be incorporated and signatures of their parties or their advocates or agents shall be obtained in token of their having received a true copy of the decree.

20. Forms. - The forms given in the Appendix to these rules with such variations as the circumstances of each case may require, shall be used.

FORM 'A'

Notice

In the Court of.....

Matrimonial and Divorce Jurisdiction

Case No.....

Date of Institution.....

.....Petitioner

- Vs -

.....Respondent.

Co-respondent.

To

.....

.....

Whereas.....has presented a petition applicable against you for.....Under Section.....of the Special Marriage Act, 1954 (NO.43 of 1954). (A copy of the said petition/application is sent herewith) You are hereby summoned to appear before this Court on the.....at 10.00 O'Clock in the forenoon to answer to the said petition/application, either in person or by recognized agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some other person able to answer all such questions, or by an advocate similarly instructed or accompanied and you are directed to produce on that day all documents upon which you intend to rely in support of your defence. You should file an answer to the petition/application on the date mentioned above.

You are further informed that in default of your appearance on the day and in the manner above mentioned, the petition/application will be heard and determined in your absence.

Given under my hand and the seal of this court, this.... Day of 20...

Date:

By order

District Judge.....

at.....

FORM 'B'

In the Court of.....

.....Petitioner

-Vs-

.....Respondent.

Petition for restitution of conjugal rights under Section 22 of the Special Marriage Act, 1954 (Act of 1954).

The petitioner prays as follows:-

1. A marriage was solemnized /registered between the parties, under Chapter II/III of the Act by Marriage Officer of.....on at.....

A certified copy of the certificate of the marriage is attached with the petition.

2. The status and place of the residence of the parties to the marriage and before the marriage at the time of filing the petition were as follows:

	Husband		Wife	
	Status Age	Place of residence	Status Age	Place of residence
(i) Before marriage				
(ii) At the time of filing the petition				

(Whether a party is a Hindu by religion or not is a part of his or her Status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, date of birth or ages).

4. The respondent has without reasonable excuse withdrawn from the society of the petitioner with effect from.....(The circumstances under which the respondent withdrew from the society of the petitioner be stated.)

5. The petition is not presented in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing the petition.

7. There is no other legal ground why relief should not be granted.

8. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of court	Results

9. The marriage was solemnized at.....The parties last resided together at.....The parties are now residing at.....(within the local limits of the ordinary original jurisdiction of this court).

10. The petitioner submits that this Hon'ble court has jurisdiction to try and entertain this petition.

11. The petitioner prays for a decree for restitution of conjugal rights against the respondent.

Sd/-

Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that paras 1 to.....of the petition are true to the petitioner's knowledge and paras.....to.....are true to the petitioner's information received and believed to be true by him/her.

Verified at.....(place)

Dated.....

Sd/-

Petitioner.

FORM "C"

In the Court of.....

.....Petitioner

-Vs-

.....Respondent.

Petition for judicial separation

under Section 23 of the Special Marriage Act, 1954 (No.43 of 1954)

The Petitioner prays as follows:-

1. the petitioner is the husband/wife of the respondent. The marriage between the parties was solemnized/registered under, Chapter II/ Chapter III of the Act by the Marriage Officer ofat.....on.....A certified copy of the certificate of marriage is attached with this petition.
2. The status and place of residence of the parties to the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Age	Place	of
(i) Before marriage				
(ii) At the time of filing the petition				

3. (In this paragraph state the names of the children, if any, of the marriage together with their sexes, dates of birth or ages.)

4. The respondent has.....(any one or more of the grounds available for judicial separation may be pleaded here. The matrimonial offence charged should be set in separate paragraphs with time and places of their alleged commission. The facts on which the claim to relief is found should be stated in accordance with the Rules and as distinctly as the nature of the case permits).

5. The petition is not presented in collusion with the respondent.
6. There is no other legal ground why the relief should not be granted.
7. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

8. The marriage was solemnized at.....the parties last resided together at.....The parties are now residing at.....(within the local limits of the ordinary original jurisdiction of this court).

9. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition.

10. The petitioner, therefore, prays for a decree for restitution of conjugal rights against the respondent.

Sd/-

Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that paras 1 to.....of the petition are true to the petitioner's knowledge and paras.....to.....are true to the petitioner's information received and believed to be true by him/her.

Verified at.....(Place)

Dated.....

Sd/-

Petitioner.

FORM C/D'

In the Court at

..... Petitioner

-Vs-

..... Respondent.

Petition for decree of nullity of marriage

under Section 24(1) of the Special Marriage Act, 1954 (No. 43 of 1954)

The Petitioner prays as follows:-

1. The petitioner is the husband/wife of the respondent.

The marriage between the parties as solemnized/registered

Under Chapter II/Under Chapter III of the Act by the marriage Officer ofat.....on.....A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Age	Place of residence	Status
(i) Before marriage				
(ii) At the time of filing the petition				

3. (Where the ground of petition is adultery) the petitioner has not in any manner been accessory to or connived at or condoned the adultery.

4. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

5. There has not been any unnecessary or improper delay in filing the petition.

6. The petition is not presented in collusion with the respondent.
7. There is no other legal ground why the relief should not be granted.
8. There has not been any previous proceedings with regard to the marriage by or on behalf of the parties:-

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

9. The marriage was solemnized at.....The parties last resided together at.....The parties are now residing at.....(within the local limits of the ordinary original jurisdiction of this court).

10. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition.

11. The petitioner, therefore, prays for a decree for judicial separation against the respondent.

Sd/-

Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that paras..... to.....of the petition are true to the petitioner's information received and believed to be true by him/her.

Verified at.....(Place)

Dated.....

Sd/-

Petitioner.

OR

3. (In this paragraph state the names of the children, if any, of the marriage together with their sexes, date of birth or ages)

4. (State here one or more of the grounds of which a decree nullity is sought. Facts on which the claim to relief is founded should be stated in compliance with the Rules and as distinctly as the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of any parties.

Serial No.	Name of Parties	Nature of proceedings with section of that Act	Number of year of the case	Name and location of court	Result
------------	-----------------	--	----------------------------	----------------------------	--------

i.

ii.

iii.

iv.

6. There has not been any unnecessary or improper delay in filing this petition.

7. The petition is not presented in collusion with the respondent.
8. There is no other legal ground why the relief should not be granted.
9. The marriage was solemnized at.....The parties are resident of/parties last resided together at.....

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner, is a resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily a resident therein for a period of three years immediately preceding the presentation of this petition and the respondent is not a resident in the said territories.

10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

11. The petitioner, therefore, prays that the marriage solemnized between the parties under the Act being null and void may be so declared by the Court by a decree of nullity.

Sd/-

Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that the paras 1 to the petition are true to the petitioner's and para.....to are true the petitioner's information received to be true by him.

Verified at.....(Place)

Dated.....

Sd/-
Petitioner.

FORM "E"

In the Court of

.....Petitioner

-Vs-

.....Respondent.

Petition under Section 24(2) of the Special Marriage Act, 1954 (No.43 of 1954) for having registration of a Marriage under Chapter III of the Act declared to be of no effect.

The Petitioner prays as follows:-

1. The petitioner is the husband/wife of Respondent. The marriage between the parties was registered under Chapter III of the Act by the Marriage Officer of.....at.....on..... and it may be deemed to be marriage solemnized under the Act by virtue of the provisions of Section 18. A certified copy of the certificate marriage is attached with this petition.
2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Age	Status	Age
(i) Before marriage				
(ii) At the time of filing the petition				

3. (In this paragraph state the name of the children, if any, of the marriage together with their sex, date of birth or ages).

4. (Where here one or more of the statutory grounds on which relief is sought . Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of the parties:-

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

6. There has not been any unnecessary or improper delay in filing this petition.

7. The petition is not presented in collusion with the respondent.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnized at.....The parties last resided together at..... The parties are now residing at.....(Within the local limits of the ordinary original jurisdiction of this court).

10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

11. The petitioner, therefore, prays that the registration of the said marriage under Chapter III of the Act may be decided by court to be of no effect

Sd/-
Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that paras 1 to.....of the petition are true to the Petitioner's knowledge and paras.....to are true the petitioner's information received and believed to be true by him.

Verified at.....(Place),

Dated.....

Sd/-
Petitioner.

FORM "F"

In the Court of

.....Petitioner

-Vs-

.....Respondent.

Petition for annulment of a marriage under Section 25 of Special Marriage Act, 1954 (No.43 of 1954).

The Petitioner prays as follows:-

1. The petitioner is the husband/wife of Respondent. The marriage between the parties was registered under Chapter II/registered under Chapter III of the Act by the Marriage Officer of.....at.....on.....A certified copy of the certificate of marriage is attached to this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife		
	Status	Age	Place of residence	Status	Age
(i) Before marriage					
(ii) At the time of filing the petition					

3. (In this paragraph state the name of the children, if any, of the marriage together with their sex, date of birth or ages).

4. (State here one or more of the statutory grounds on which relief is sought. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of the party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the party:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
i.					

ii.

iii.

iv.

6. There is no other legal ground why the relief should not be granted.

7. The marriage was solemnized at.....The parties reside at..... The parties last resided together at.....

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner is a resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily a resident therein for a period of three years immediately proceeding the presentation of this petition and the respondent is not a resident in the said territories.

10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

11. The petitioner, therefore, prays that the marriage solemnized between the parties under the Act being null and void may be so declared by the Court by a decree of nullity.

Sd/-
Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that the paras 1 to..... of the petition are true to the Petitioner's knowledge and paras to..... are true to the petitioner's information received and believed to be true by him.

Verified at.....(Place),

Dated.....

Sd/-
Petitioner.

FORM "G"

In the Court of

.....Petitioner

-Vs-

.....Respondent.

*Petition for divorce under Section 27 of the Special Marriage Act, 1954
(No. 43 of 1954).*

The Petitioner prays as follows:-

1. The petitioner is the husband/wife of Respondent. The marriage between the parties was solemnized and registered under..... Chapter II of the Act by the Marriage Officer of..... Chapter III at.....on..... A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife			
	Status	Age	Place of residence	Status	Age	Place of residence
(i) Before marriage						
(ii) At the time of filing the petition						

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. (The respondent has.....one or more grounds specified in Section 27 of the Act the same may be pleaded. The facts on which the claim to relief is founded should be.....in accordance with the Rules and as distinctly as the nature of the case permits).

5. (Where the ground of petition is adultery), the petitioner has not in any manner been accessory to or connived at or condoned the adultery.

6. (Where the ground of petition is cruelty). The Petitioner has not in any manner condoned the cruelty.

7. The petition is not presented in collusion with the respondent.

8. There has not been any unnecessary or improper delay in instituting the proceeding.

9. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceedings with section of that Act	Number of year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

10. (In petition by the husband for divorce on the ground of adultery where damages are claimed against the co-respondent, grounds on which the claim to damages is founded should be fully and clearly stated and the amount claimed and the mode of assessment should be specified.)

11. There is no other ground why relief should be granted.

12. The marriage was solemnized at.....The husband and wife reside at.....The husband and wife last resided together at.....(within the local limits of the jurisdiction of this court.)

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner, is a resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily a resident therein for a period of three years immediately proceeding the presentation of this petition and the respondent is not a resident in the said territories. (Give particulars according to the Rule).

13. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

14. The petitioner, therefore, prays that he may be granted a decree of divorce against the respondent and (to be scored out if unnecessary) may further be granted a decree for recovery of Rs.... as damages against the adulterer/co-respondent.

Sd/-
Petitioner.

VERIFICATION

The above-named petitioner states on solemn affirmation that paras 1 to.....of the petition are true to the Petitioner's knowledge and paras.....to..... are true to the petitioner's information received and believed to be true by him.

Verified at.....(Place),

Dated.....

Sd/-
Petitioner.

FORM "H"

In the Court of

(Husband).....

(Wife)..... Petitioners

Petition for divorce by mutual consent under Section 28 of the Special Marriage Act, 1954 (No.43 of 1954).

The Petitioners pray together as follows:-

1. A marriage between the petitioners was solemnized under Chapter II/registered under Chapter III of the Act by the Marriage Officer of..... at.....on.....A certified copy of the certificate of marriage is attached to this petition.
2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Age	Status	Age
(i) Before marriage				
(ii) At the time of filing the petition				

3. (In this paragraph state the name of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The petitioners have been living separately for a period of one year or more and have not been able to live together and the petitioners have mutually agreed that the marriage should be dissolved.

5. The consent of either party has not been obtained by force, fraud or undue influence.

6. There is no collusion between the petitioners.

7. There have been the following previous proceedings with regard to the marriage by or on behalf of the party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
------------	-----------------	---	----------------------------	----------------------------	--------

i.

ii.

iii.

iv.

8. There has not been any unnecessary or improper delay in filing the petition.

9. There is no other legal ground why relief should be granted.

10. The marriage was solemnized at.....The petitioner reside at..... The petitioners resided together at.....(within the local limits of the jurisdiction of this court.)

11. The petitioners submit that this Hon'ble Court has jurisdiction to entertain this petition.

The petitioner, therefore, pray for decree declaring the marriage to be dissolved with effect from the date of the decree.

Sd/-
.....(Husband)

Sd/-
.....(Wife)

Petitioners.

VERIFICATION

The above-named petitioners state on solemn affirmation that paras 1 to.....of the petition are true to their knowledge and paras.....to..... are true to their information received and believed to be true by them.

Verified at.....(Place),

Sd/-.....(Husband)

Sd/-
.....(Wife)

Petitioners.

FORM "I"

In the Court of

.....Applicant

versus

.....Respondent.

Application under Section 29 of the Special Marriage Act, 1954(No.43 of 1954) praying that a petition for divorce may be allowed to be presented within one year of the date of entering the certificate of marriage in the Marriage Certificate Book.

The applicant prays as follows:-

1. The applicant is the husband/ wife of the respondent. The marriage between the parties was solemnized under Chapter II/registered under Chapter III of the Act by the Marriage Officer of..... at.....on.....and a certificate of marriage was entered in the Marriage Certificate Book on.....A certified copy of the certificate of marriage is attached with this application.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the application were as follows:-

	Husband		Wife		
	Status	Age	Place of residence	Status	Age
(i) Before marriage					
(ii) At the time of filing the petition					

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. There is a case of exceptional hardship to the petitioner exceptional depravity on the part of the respondent as the (State herein in accordance with the Rules and as distinctly as the exceptional hardship or depravity, as the case may be).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of the party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the party:

Serial No.	Name of Parties	Nature of proceeding with section of that Act	Number of year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

6. The marriage solemnized at.....parties reside at..... The parties last resided together at.....

OR

(Where the application is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner, is a resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily a resident therein for a period of three years immediately proceeding the presentation of this application and the respondent is not a resident in the said territories.

7. The applicant, therefore submits that this Hon'ble Court has jurisdiction to entertain this application.

8. The applicant, therefore, prays that he/she may be allowed to present a petition for divorce within one year of the date of entering the certificate of marriage in the Marriage Certificate Book.

Sd/-
Applicant.

VERIFICATION

The above-named applicant states on solemn affirmation that paras 1 to.....of the application are true to the Petitioner's knowledge and para.....to..... are true to the applicant's information received and believed to be true by him/her.

Verified at.....(Place),

Date.....

Sd/-
Applicant.

FORM "J"

In the Court of

.....Applicant

versus

.....Respondent.

Application for alimony pendente lite under Section 36 of the Special Marriage Act, 1954 (No. 43 of 1954) the applicant prays as under:-

1. A proceeding under Chapter V/VI of the Act is pending in this court between the parties, (Give the number and title of the case, date of hearing etc.)

2. The applicant owns no other movable or immovable property, and has no other income except, (Give full particulars of the applicant's property and income etc.)

3. The applicants has no independent income sufficient for her support and for the necessary expenses of the proceedings.

4. The respondent has sources of income and own property mentioned below (Give full particulars about respondent's income and property etc.)

5. The only person dependent upon the respondent is the applicant herself or the applicant and.....

6. The respondent has not made any provision for the applicant's maintenance.

7. The applicant submits that having regard to the respondent's own income and his property and having regard to the facts that the applicant has no independent income sufficient for her support and the necessary expenses of the proceeding, a sum of Rs.....per week/month or and by way of her support is the just and proper amount.

8. The respondent may be ordered to pay a sum of Rs.....as the applicant's expenses of the proceedings and a sum of Rs.....weekly/monthly for applicant's support during the proccedings.

Sd/-
Applicant.

VERIFICATION

The above-named applicant states on solemn affirmation that paras 1 to.....of the application are true to the applicant's knowledge and paras.....to..... are true to the applicant's information received and believed to be true by her.

Verified at.....(Place),

Dated.....

Sd/-
Applicant.

FORM "K"

In the Court of

.....Applicant

versus

.....Respondent.

Application for permanent alimony and maintenance under Section 37 of the Special Marriage Act, 1954(No. 43 of 1954)

The applicant prays as under:-

1. A proceedings between the parties under Chapter V, VI of the Act is pending in the Court (Give particulars like has been decided by section of the Act, number and title of case, date of decree or hearing.)
2. The applicant owns no other movable or immovable property, and has no other source of income except, (Give full details of the applicant's income and property and income etc.)
3. The applicant has no sufficient income for her maintenance and support.
4. The respondent has sources of income and owns property mentioned below (Give full particulars about respondent's income and property etc.)
5. The only person dependent upon the respondent is the applicant herself or the applicant and.....
6. The respondent has not made any provision for the applicant's maintenance and support.
7. The applicant has not conducted herself in any manner which would disentitle her from receiving maintenance and support from the respondent.

The applicant prays that having regard to the income of the parties and their conduct, the respondent may be ordered to secure to the applicant for her maintenance and support until her death gross sum of Rs
.....

Monthly

periodical

and (Score out if unnecessary) the said sum should be made a charge on the respondent's property.

Sd/-
Applicant.

VERIFICATION

The above-named applicant states on solemn affirmation that paras 1 to.....of the application are true to the applicant's knowledge and paras.....to..... are true to the applicant's information received and believed to be true by her.

Verified at.....(Place),

Dated.....

Sd/-

Applicant.

By Order,

REGISTRAR GENERAL

The 17th December, 2013.

ALTERNATIVE DISPUTE RESOLUTION (HIGH COURT OF MEGHALAYA) RULES 2013.

No.HCM.II/430/2013/6019.- In exercise of the powers conferred by Article 225 of the Constitution of India and Section 122 and Section 125 of Part X of the Code of Civil Procedure, 1908 (5 of 1908) read with clause (d) of sub-section (2) of Section 89 of the said Code the High Court of Meghalaya is pleased to make the following Rules:

1. Title:- These Rules shall be called the Alternative Dispute Resolution (High Court of Meghalaya) Rules, 2013.

2. Definitions :- (a) Settlement by "Arbitration" means the process by which an arbitrator appointed by parties or by the Court, as the case may be, adjudicates the disputes between the parties to the suit and passes an award by the application of the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), in so far as they refer to arbitration.

(b) Settlement by "Conciliation" means the process by which a conciliator who is appointed by the parties or by the Court, as the case may be, conciliates the disputes between the parties to the suit by the application of the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), in so far as they relate to conciliation, and in particular, in exercise of his powers under section 67 and 73 of that Act, by making proposals for a settlement of the dispute and by formulating or reformulating the terms of a possible settlement; and has a greater role than a mediator.

(c) Settlement by "Mediation" means a process by which a mediator appointed by parties or by the Court, as the case may be, mediates the dispute between the parties to the suit by the application of the provisions of the Civil Procedure Mediation (High Court of Meghalaya) Rules, 2013, and in particular, by facilitating discussion between parties directly or by communicating with each other through the mediator, by assisting the parties in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, generating options in an attempt to solve the dispute and emphasizing that it is the parties own responsibility for making decisions which affect them.

(d) Settlement in "Lok Adalat" means settlement by Lok Adalat as contemplated by the Legal Services Authorities Act, 1987.

(e) "Judicial settlement" means a final settlement by way of compromise entered into before a suitable institution or person of which the Court has referred the dispute and which institution or person is deemed to be the Lok Adalat under the provision of The Legal Service Authorities Act, 1987 (39 of 1987) and where after such reference, the provisions of the said Act apply as if the dispute was referred to a Lok Adalat under the provisions of that Act.

3. Procedure for directing parties to opt for alternative modes of settlement.-

(a) The Court shall, after recording admissions and denials at the first hearing of the suit under Rule 1 of Order X, and where it appears to the Court that there exist elements of settlement which may be acceptable to the parties, formulate the terms of settlement and give them, to the parties for their observations under sub-section (1) of Section 89, and the parties shall submit to the Court their responses within thirty days of the first hearing.

(b) At the next hearing, which shall be not later than thirty days of the receipt of responses, the Court may reformulate the terms of a possible settlement and shall direct the parties to opt for one of the modes of settlement of disputes outside the Court as specified in clauses (a) to (d) of sub-section (1) of Section 89 read with Rule 1A of Order X, in the manner stated hereunder:

Provided that the Court, in the exercise of such power, shall not refer any dispute to arbitration or to judicial settlement by a person or institution without the written consent of all parties to the suit.

4. Persons authorized to take decision for the Union of India, State Governments and others:- (1) For the purpose of Rule 3, the Union of India or the Government of a State or Union Territory, all local authorities, all Public Sector Undertaking, all statutory corporations and all public authorities shall nominate a person or persons or group of persons who are authorized to take a final decision as to the mode of Alternative Dispute Resolution which it proposes to opt for the event of direction by the Court under Section 89 and such nomination shall be communicated to the High Court within a period of three months from the date of commencement of these Rules and the High Court shall notify all the Subordinate Courts in this behalf as soon as such nomination is received from such Government or authorities.

(2) Where such person or persons or group of persons have not been nominated as aforesaid, such party as referred to in clause (1) shall, if it is a plaintiff, file along with the plaint or if it is a defendant, file along with or before the filing of the written statement, a memo into the Court, nominating a person or persons or group of persons who is or are authorized to take a final decision as to the mode of alternative disputes resolution, which the party prefers to adopt in the event of the Court directing the party to opt for one or other mode of Alternative Dispute Resolution.

5. Court to give guidance to parties while giving direction to opt:-

(a) Before directing the parties to exercise option under clause (b) of Rule 3, the Court shall give such guidance as it deems fit to the parties, by drawing their attention to the relevant factors which parties will have to take into account, before they exercise their options as to the particular mode of settlement, namely:

(i) that it will be to the advantage of the parties, so far as the time and expense are concerned, to opt for one or other of these modes of settlement referred to in Section 89 rather than seek a trial on the disputes arising in the suit;

(ii) that, where there is no relationship between the parties which requires to be preserved, it may be in the interest of the parties to seek reference of the matter to arbitration as envisaged in clause (a) of sub-section (1) of Section 89;

(iii) that, where there is relationship between the parties which requires to be preserved, it may be in the interest of the parties to seek reference of the matter to conciliation or mediation, as envisaged in clause (b) or (d) of sub-section (1) of Section 89;

Explanation- Disputes arising in matrimonial, maintenance and child custody matters shall, among others, be treated as cases where a relationship between the parties has to be preserved;

(iv) that, where parties are interested in a final settlement which may lead to a compromise, it will be in the interest of the parties to seek reference of the matter to Lok Adalat or to judicial settlement as envisaged in clause (c) of sub-section (1) of Section 89;

(v) the difference between the different modes of settlement, namely, arbitration, conciliation, mediation and judicial settlement are explained in Rule 2.

6. Procedure for reference by the Court to the different modes of settlement:-

(a) Where all parties to the suit decide to exercise their option and to agree for settlement by arbitration, they shall apply to the Court, within thirty days of the direction of the Court under clause (b) of Rule 3 and the Court shall, within thirty days of the said application, refer the matter to arbitration and thereafter the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) which are applicable after the stage of making of the reference to arbitration under the Act, shall apply as if the proceedings were referred for settlement by way of arbitration under the provisions of that Act.

(b) Where all the parties to the suit decide to exercise their option and to agree for settlement by the Lok Adalat or where one of the parties applies for reference to Lok Adalat, the procedure envisaged under The Legal Services Authorities Act, 1987 and in particular by Section 20 of that Act, shall apply.

(c) Where all the parties to the suit decide to exercise their option and to agree for judicial settlement, they shall apply to the Court within thirty days of the direction under clause (b) of Rule 3 and then the Court shall, within thirty days of the application, refer the matter to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and thereafter the provisions of The Legal Services Authorities Act, 1987 (39 of 1987) which are applicable after the stage of making the reference to Lok Adalat under that Act, shall apply as if the proceeding were referred for settlement under the provisions of that Act.

(d) Where none of the parties are willing to agree to opt or agree to refer the dispute to arbitration, or Lok Adalat, or to judicial settlement, within thirty days of the direction of the Court under clause (b) of Rule 3, they shall consider if they could agree for reference to conciliation or mediation, within the same period.

(e)(i) Where all the parties opt and agree for conciliation, they shall apply to the Court, within thirty days of the direction under clause (b) of Rule 3 and the Court shall, within thirty days of the application refer the matter to conciliation and thereafter the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) which are applicable after the stage of making of the reference to conciliation under that Act, shall apply, as if

the proceedings were referred for settlement by way of conciliation under the provisions of that Act.

(ii) Where all the parties opt and agree for mediation, they shall apply to the Court, within thirty days of the direction under clause (b) of Rule 3 and the Court shall, within thirty days of the application, refer the matter to mediation and then the Civil Procedure Mediation (High Court of Meghalaya) Rules 2013, shall apply.

(f)(i) Where under clause (d), all the parties are not able to opt and agree for conciliation or mediation, one or more parties may apply to the Court within thirty days of the direction under clause (b) of Rule 3, seeking settlement through conciliation or mediation, as the case may be, and in the event, the Court shall, within a further period of thirty days issue notice to the other parties to respond the application, and

(ii) In case all the parties agree for conciliation, the Court shall refer the matter to conciliation and thereafter, the provisions of the Arbitration and the Conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act, shall apply;

(iii) In case all the parties agree for mediation, the Court shall refer the matter to mediation in accordance with the Civil Procedure Mediation (High Court of Meghalaya) Rules 2013.

(iv) In case all the parties do not agree and where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties and that there is a relationship between the parties which has to be preserved, the Court shall refer the matter to conciliation or mediation, as the case may be. In case the dispute is referred to conciliation, the provisions of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to Conciliation under that Act shall and in case the dispute is referred to mediation, the provisions of the Civil Procedure Mediation (High Court of Meghalaya) Rules 2013, shall apply.

(g)(i) Where none of the parties apply for reference either to arbitration, or Lok Adalat, or judicial settlement, or conciliation or mediation, within thirty days of the direction under clause (b) of Rule 3, the Court shall, within a further period of thirty days, issue

notice to the parties or their representatives fixing the matter for hearing on the question of making a reference either to conciliation or mediation.

(ii) After hearing the parties or their representatives on the day so fixed the Court shall, if there exist elements of a settlement which may be acceptable to the parties and there is a relationship between the parties which has to be preserved, refer the matter to conciliation or mediation. In case the dispute is referred to conciliation, the provisions of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act shall and in case the dispute is referred to mediation, the provisions of the Civil Procedure Mediation (High Court of Meghalaya) Rules, 2013, shall apply.

(h)(i) No next friend or guardian for the suit shall, without the leave of the Court, expressly recorded in the proceedings of the Court, opt for any one of the modes of alternative dispute resolution nor shall enter into any settlement on behalf of a minor or person under disability with reference to the suit in which he acts as next friend or guardian.

(ii) Where an application is made to the Court for leave to enter into a settlement initiated in the alternative dispute resolution proceeding on behalf of a minor or other person under disability and such minor or other person under disability is represented by counsel or pleader, the counsel or pleader shall file a certificate along with the said application to the effect that the settlement is, in his opinion, for the benefit of the minor or other person under disability. The decree of the Court based on the settlement to which the minor or other person under disability is a party, shall refer to the sanction of the Court thereto and shall set out the terms of the settlement.

7. Referral to the Court and appearance before the Court upon failure of attempts to settle disputes by conciliation or judicial settlement or mediation:-

(1) Where a suit has been referred for settlement for conciliation, mediation or judicial settlement and has not been settled or where it is felt that it would not be proper in the interest of justice to proceed further with the matter, the suit shall be referred back again to the Court with a direction to the parties to appear before the Court on a specific date.

(2) Upon the reference of the matter back to the Court under sub-rule (1) or under sub-section (5) of Section 20 of The Legal Service Authorities Act, 1987, the Court shall proceed with the suit in accordance with law.

8. Training in alternative methods of resolution of disputes, and preparation of manual:-

(a) The High Court shall take steps to have training courses conducted in places where the High Court and the District Courts or Courts of equal status are located, by requesting bodies recognized by the High Court or the Universities imparting legal education or retired faculty members or other persons who, according to the High Court are well versed in the techniques of alternative methods of resolution of dispute, to conduct training courses for lawyers and judicial officers.

(b) (i) The High Court shall nominate a committee of Judges, faculty members including retired persons belonging to the above categories, senior member of the Bar, other members of the Bar specially qualified in the techniques of alternative dispute resolution, for the purpose referred to in clause (a) and for the purpose of preparing a detailed manual of procedure for alternative dispute resolution to be used by the Courts in the State as well as by the arbitrators, or authority or person in the case of judicial settlement or conciliators or mediators.

(ii) The said manual shall describe the various methods of alternative disputes resolution, the manner in which any one of the said methods is to be opted for, the suitability of any particular method for any particular type of dispute and shall specifically deal with the role of the above persons in dispute which are commercial or domestic in nature or which relate to matrimonial, maintenance and child custody matters.

(c) The High Courts and the District Courts shall periodically conduct seminars and workshops on the subject of alternative dispute resolution procedure throughout the State or States over which the High Court has jurisdiction with a view to bringing awareness of such procedures and imparting training to lawyers and judicial officers.

(d) Persons who have experience in the matter of alternative disputes resolution procedures, and in particular in regard to conciliation and mediation, shall be given preference in the matter of empanelment for purposes of conciliation or mediation.

9. Applicability to other proceedings.- The provisions of these Rules may be applied to proceedings before the Courts, including Family Courts constituted under the Family Courts Act 1984 (66 of 1984), while dealing with matrimonial, maintenance and child custody disputes, wherever necessary, in addition to the rules framed under the Family Courts Act 1986 (66 of 1984).

By Order,

REGISTRAR GENERAL

The 17th December, 2013.

CIVIL PROCEDCURE MEDIATION (HIGH COURT OF MEGHALAYA) RULES, 2013

No.HCM.II/430/2013/6020.- In exercise of the powers conferred by Article 225 of the Constitution of India, Section 122 and Section 125 of Part X of the Code of Civil Procedure, 1908 (5 of 1908) and all other powers enabling it, the High Court of Meghalaya is pleased to make the following Rules:

1. Title:- These Rules shall be called the Civil Procedure Mediation (High Court of Meghalaya) Rules, 2013.

2. Appointment of mediator - (a) Parties to a suit may all agree on the names of the sole mediator for mediating between them.

(b) Where, there are two sets of parties and they are unable to agree on a sole mediator, each set of parties shall nominate a mediator.

(c) Where parties agree on a sole mediator under clause (a) or where parties nominate more than one mediator under clause (b), the mediator need not necessarily be from the panel of mediators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should be a person who suffers from the disqualifications referred to in Rule 5.

(d) Where there are more than two sets of parties having diverse interests, each set shall nominate a person on its behalf and the said nominees shall select the sole mediator and failing unanimity in that behalf, the Court shall appoint a sole mediator.

3. Panel of mediators,-(a) The High Court shall, for the purpose of appointing mediators between parties in suits filed on its original side, prepare a panel of mediators and publish the same on its Notice Board, within thirty days of the coming into force of these Rules, with copy to the Bar Association attached to the original side of the High Court.

(b) (i) The Courts of the District and Sessions Judges or the Courts of the Judges of the Civil Court or Courts of equal status shall, for the purpose of appointing mediators to mediate between parties in suits filed on their original side, prepare a panel of mediators, within a period of ninety days of the commencement of these Rules, after obtaining the approval of the High Court to the names included in the panel, and shall publish the same on their respective Notice Board.

(ii) Copies of the said panels referred to in sub-clause (i) shall be forwarded to all the Courts of equivalent jurisdiction or Courts subordinate to the Court referred to in sub-clause (i) and to the Bar Association attached to each of the Courts.

(c) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.

(d) The panel of names shall contain a detailed Annexure giving details of the qualifications of the mediators and their professional or technical experience in different fields.

4. Qualifications of persons to be empanelled under Rule 3.- The following persons shall be treated as qualified and eligible for being enlisted in the panel of mediators under Rule 3, namely:

(a) (i) Retired Judges of the Supreme Court of India,

(ii) Retired Judges of the High Court,

(iii) Retired District and Sessions Judges or retired Judges of the Civil Court or Courts of equivalent status;

(b) Legal practitioners with at least ten years standing at the Bar at the level of the Supreme Court or the High Court or the District Courts or Courts of equivalent status;

(c) Experts or other professionals with atleast fifteen years standing or retired senior bureaucrats or retired senior executives.

(d) Institutions which are themselves experts in mediation and have been recognized as such by the High Court, provided the names of its members are approved by the High Court initially or whenever there is a change in membership.

5. Disqualification of persons.- The following persons shall be deemed to be disqualified for being empanelled as mediators:

(i) Any person who has been adjudged as insolvent or is declared of unsound mind;

(ii) Any person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending,

(iii) Any person who has been convicted by a criminal court for any offence involving moral turpitude,

(iv) Any person against whom disciplinary proceedings or charges relating to moral turpitude have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment,

(v) Any person who is interested or connected with the subject-matter of dispute or is related to any one of the parties or to those who represent them, unless such objection is waived by all parties in writing.

(vi) Any legal practitioner who has appeared or is appearing for any of the parties in the suit or in any other suit or proceedings,

(vii) Such other categories of persons as may be notified by the High Court.

6. Venue for conducting mediation - The mediator shall conduct the mediation at one or other of the following places:

(i) Venue of the Lok Adalat or permanent Lok Adalat,

(ii) Any place identified by the District Judge within the Court precincts for the purpose of conducting mediation,

(iii) Any other place as may be agreed upon by the parties subject to the approval of the Court.

7. Preference - The Court shall, while nominating any person from the panel of mediators referred to in Rule 3, consider his suitability for resolving the particular class of dispute involved in the suit and shall give preference to those who have proven record of successful mediation or who have special qualification or experience in mediation.

8. Duty of mediator to disclose certain facts - (a) When a person is approached in connection with his possible appointment as a mediator, the person shall disclose in writing to the parties, any circumstance likely to give rise to a justifiable doubt as to his independence or impartiality.

(b) Every mediator shall, from the time of his appointment and throughout the continuance of the mediation proceedings, without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in clause (a).

9. Cancellation of appointment - Upon information furnished by the mediator under Rule 8 or upon any other information received from the parties or other persons, if the Court, in which the suit is filed, is satisfied, after conducting such inquiry as it deems fit, and after giving a hearing to the mediator, that the said information has raised a justifiable doubt as to the mediators independence or impartiality, it shall cancel the appointment by a reasoned order and replace him by another mediator.

10. Removal or deletion from panel - A person whose name is placed in the panel referred to in Rule 3 may be removed or his name may be deleted from the said panel, by the Court which empanelled him, if:

- (i) he resigns or withdraws his name from the panel for any reason,
- (ii) he is declared insolvent or is declared of unsound mind,
- (iii) he is a person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending,
- (iv) he is a person who has been convicted by a criminal court for any offence involving moral turpitude,
- (v) he is a person against whom disciplinary proceedings on charges relating to moral turpitude have been initiated by appropriate disciplinary authority which are pending or have resulted in a punishment,
- (vi) he exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a mediator,
- (vii) the Court which empanelled him, upon receipt of information, is satisfied, after conducting such inquiry as it deems fit, and is of the view, that it is not possible or desirable to continue with the name of that person in the panel, provided that, before removing or deleting his name, under clause (vi) and (vii), the Court shall hear the mediator whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

11. Procedure of mediation - (a) The parties may agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings.

(b) Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely:

(i) he shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation sessions, where all the parties have to be present;

(ii) he shall hold the mediation conference in accordance with the provisions of Rule 6;

(iii) he may conduct joint or separate meetings with the parties;

(iv) each party shall, ten days before the session, provide to the mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the mediator to understand the issue; such memoranda shall also be mutually exchanged between the parties;

(v) each party shall furnish to the mediator, copies of pleadings or documents or such other information as may be required by him in connection with the issues to be resolved.

Provided that where the mediator is of the opinion that he should look into any original document, the Court may permit him to look into the original document before such officer of the Court and on such date and at such time as the Court may fix;

(vi) each party shall furnish to the mediator such other information as maybe required by him in connection with the issue to be resolved.

(c) Where there is more than one mediator, the mediator nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other mediators, with a view to resolving the disputes.

12. Mediator not bound by Evidence Act, 1872 or code of Civil Procedure, 1908:-
The mediator shall not be bound by the Code of Civil Procedure, 1908 or the Evidence Act, 1872, but shall be guided by principles of fairness and justice, and have regard to the rights and obligations of the parties, usage of trade, if any, and the nature of the dispute.

13. Non- attendance of parties at sessions on due dates:- (a) The parties shall be present personally or may be represented by their counsel or power of attorney holders at the meetings or sessions notified by the mediator.

(b) The parties not resident in India may be represented by their counsel or power of attorney holders at the sessions or meetings.

14. Administrative assistance:- In order to facilitate the conduct of mediation proceedings, the parties, or the mediator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

15. Offer of settlement by parties:- Any party to the suit may, without prejudice to the rights of the parties, offer a settlement to the other party at any stage of the proceedings, with notice to the mediator.

16. Role of mediator:- The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which affect them; he shall not impose any term of settlement on the parties.

17. Parties alone responsible for taking decision:- The parties must understand that the mediator only facilitates in arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the mediator give any warranty that the mediation will result in a settlement. The mediator shall not impose any decision on the parties.

18. Time limit for completion of mediation:- On the expiry of sixty days from the date fixed for the first appearance of the parties before the mediator, the mediation shall stand terminated, unless the court, which referred the matter, either suo motu, or upon request by the mediator or any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.

19. Parties to act in good faith:- While no one can be compelled to commit to settle his case in advance of mediation, all parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute, if possible.

20. Confidentiality, disclosure and inadmissibility of information:- (1) When a mediator receives confidential information concerning the dispute from any party, he shall disclose the substance of that information to the other party, if permitted in writing by first party.

(2) When a party gives information to the mediator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other party, nor shall the mediator voluntarily divulge any information regarding the documents or what is conveyed to him orally as to what transpired during the mediation.

(3) Receipt or perusal, or preparation of records, reports or the documents by the mediator, or receipt of information orally by the mediator while serving in that capacity, shall be confidential and the mediator shall not be compelled to divulge information regarding the documents nor in regard to the oral information nor as to what transpired during the mediation.

(4) Parties shall maintain confidentiality in respect of events that transpired during mediation and shall not rely on or introduce the said information in any other proceedings as to :-

- (a) views expressed by a party in the course of the mediation proceedings;
- (b) documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by the parties or mediators;
- (c) proposals made or views expressed by the mediator;
- (d) admission made by the party in the course of mediation proceedings;
- (e) the fact that a party had or had not indicated willingness to accept a proposal.

(5) There shall be no stenographic or audio or video recording of the mediation proceedings.

21. Privacy:- Mediation sessions and meetings are private; and only the concerned parties or their counsel or power of attorney holders can attend . Other persons may attend only with the permission of the parties or with the consent of the mediator.

22. Immunity:- No mediator shall be held liable for anything bona fide done or omitted to be done by him during the mediation proceedings for civil or criminal action nor shall he be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.

23. Communication between mediator and the Court:- (a) In order to preserve the confidence of parties in the Court and the neutrality of the mediator, there shall be no communication between the mediator and the Court, except as stated in clauses (b) and (c) of this Rule.

(b) If any communication between the mediator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or power of attorney holders.

(c) Communication between the mediator and the Court shall be limited to communication by mediator:

(i) with the Court about the failure of Party to attend;

(ii) with the Court with the consent of the Parties;

(iii) regarding his assessment that the case is not suited for settlement through mediation;

(iv) that the parties have settled the dispute or disputes.

24. Settlement Agreement:- (1) Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduce to writing and signed by the parties or their power of attorney holders. If any counsel has represented the parties, they shall all attest the signature of their respective clients.

(2) The agreement of the parties so signed and attested shall be submitted to the mediator who shall, with a covering letter signed by him, forward the same to the Court in which the suit is pending.

(3) Where no agreement is arrived at between the parties, before the time limit stated in Rule 18 or where, the mediator is of the view that no settlement is possible, he shall report the same to the said Court in writing.

25. Court to fix a date for recording settlement and passing decree:

(1) Within seven days of the receipt of any settlement, the Court shall issue notice to the parties fixing a date for recording the settlement. Such date not being beyond a further period of fourteen days from the date of receipt of settlement, the Court shall record the settlement, if it is not against the provisions of law.

(2) The Court shall then pass a decree in accordance with the settlement so recorded, if the settlement disposes of all the issues in the suit.

(3) If the settlement disposes of only certain issues arising in the suit, the Court shall record the settlement on the date fixed for recording the settlement and (i) if the issues are severable from other issues and if a decree could be passed to the extent of the settlement covered by those issues, the Court may pass a decree straightaway in accordance with the settlement on those issues without waiting for a decision of the Court on the other issues which are not settled; (ii) If the issues are not severable, the Court shall wait for a decision on the other issues which are not settled.

26. Fee of mediator and costs:- (1) At the time of referring the disputes to mediation, the Court shall, after consulting the mediator and the parties, fix the fee of the mediator.

(2) As far as possible a consolidated sum may be fixed rather than for each session or meeting.

(3) Where there are two mediators as in clause (b) of Rule 2, the Court shall fix the fee payable to the mediators, which shall be shared equally by the two sets of parties.

(4) The expense of the mediation including the fee of the mediator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.

(5) Each party shall bear the costs for production of its witnesses experts, or for production of documents.

(6) The mediator may, before the commencement of mediation, direct including the parties to deposit equal sums, tentatively, to the extent of 50% of the probable costs of the mediation, as referred to in clause (1), (3) and (4). The remaining 50% shall be deposited with the mediator, after the conclusion of mediation. For the amount of cost paid to the mediator, he shall issue the necessary receipts and a statement of amount shall be filed by the mediator in the Court.

(7) The expense of mediation including fee, if not paid by the parties, the Court shall, on the application of the mediator or parties, direct the concerned parties to pay, and if they do not pay, the Court shall recover the said amounts as if there was a decree for the said amount.

(8) Where a party is entitled to legal aid under Section 12 of the Legal Services Authority Act, 1987, the amount of fee payable to the mediator and the costs shall be paid by the concerned Legal Services Authority under the Act.

27. Ethics to be followed by mediator:- The mediator shall:

- (1) follow and observe these Rules strictly and with due diligence;
- (2) not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a mediator;
- (3) uphold the integrity and fairness of the mediation process;
- (4) ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process;
- (5) satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
- (6) disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;
- (7) avoid, while communicating with the parties, any impropriety or appearance of impropriety;
- (8) be faithful to the relationship of trust and confidentiality imposed in the office of mediator;
- (9) conduct all proceedings related to the resolution of a dispute, in accordance with the applicable law;
- (10) recognize that mediation is based on principles of self- determination by the parties and that the mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
- (11) maintain the reasonable expectations of the parties as to confidentiality;
- (12) refrain from promises or guarantees of results.

28. Transitory provisions:- Until a panel of arbitrators is prepared by the High Court and District Court, the Courts referred to in Rule 3, may nominate a mediator of their choice if the mediator belongs to the various classes of persons referred to in Rule 4 and is duly qualified and; is not disqualified, taking into account the suitability of the mediator for resolving the particular dispute.

By Order,

REGISTRAR GENERAL

The 17th December, 2013.

THE HINDU MARRIAGE (HIGH COURT OF MEGHALAYA) RULES 2013

No.HCM.II/430/2013/6021.- In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Act No.XXV of 1955) with all its amendments up-to date, the High Court of Meghalaya is pleased to make the following Rules for regulating the proceedings under the said Act.

1. Short title. – These Rules may be called the Hindu Marriage (High Court of Meghalaya) Rules 2013.

2. Commencement. – These Rules shall take effect from the date of their publication in the Gazette.

3. Definitions. – Notwithstanding anything contained contrary to the subject or context, in these Rules:

(i) "Act" means the Hindu Marriage Act, 1955(Central Act No.XXV of 1955) with all its up-to date amendments.

(ii) "Court" means the District Court as mentioned in Section 3(6) of the Act or the Family Court created under the Family Courts Act 1984.

(iii) "Code" means the Civil Procedure Code, 1908 as amended from time to time.

(iv) "Section" and "sub-section" means section and sub- section of the Act respectively.

(v) All terms and expressions used in these Rules shall carry the same meaning as assigned to them in the Act.

4. Petition. – (i) Every petition under the Act shall be accompanied by either certified extract from Hindu Marriage Register maintained as per Section 8 of the Act where the marriage is registered under the Act, or, in the absence of the same, an affidavit to the effect that the marriage was solemnised between the spouses under the Hindu rites and rituals.

[(ii) Every petition for divorce on either of the grounds mentioned in clauses (i) and (ii) of sub-section (1-A) of Section 13 of the Act shall be accompanied by certificate copy of the decree of judicial separation or for restitution of conjugal rights as the case may be].

5. Initiation of proceedings.—All proceedings under the Act shall be initiated by petition viz:....

- (i) Under Section 9 for restitution of conjugal rights.
- (ii) Under Section 10(1) and 10(2) for Judicial separation and for rescinding a decree for Judicial separation.
- (iii) Under Sections 11 and 12 of the Act for nullifying a marriage.
- (iv) Under Section 13 and Section 13(b) for a decree a divorce and for decree of divorce by mutual consent respectively.
- (v) Under Section 14 for leave to present a petition for divorce before the expiration of one year from the date of marriage.
- (vi) Under Section 26 for making, revoking, suspending or varying orders and provisions previously made with respect to the custody, maintenance and education of minor children belonging to the spouses to the proceeding.

Note – In case of (v) and (vi) the petitions should be supported by affidavit as per provision of Civil Procedure Code.

6. Petition by or against a person suffering from mental disorder. – A person suffering from mental disorder in any proceeding under the Act shall be treated in all respect and for purposes as a person of unsound mind as contemplated under Order XXXII of the Code.

7. Contents of petitions.– In addition to the particulars required under Order VII Rule 1 of the Code and Section 20(1) of the Act, every petition for Judicial separation, nullity of marriage and divorce under Sections 9 and 13 of the Act shall contain the following particulars:-

- (i) The place and date of marriage
- (ii) Whether the spouses were Hindus by religion at the time of the marriage and whether they continue to be so till the date of filing the petition.
- (iii) The name, status, domicile of the spouses before the marriage/after the marriage and at the time of presenting the petition.
- (iv) The principal permanent address where the parties reside at the time of presenting the petition together with the addresses where they last resided together.

- (v) The name of the children, of the marriage, if any, their sex and their dates of birth or ages.
- (vi) If there was any prior proceeding under the Act between the parties, full particulars thereof.
- (vii) If the relief is sought in the ground of matrimonial offence, or offences or other grounds-the time and place of the acts of facts alleged with sufficient material particularly but not the evidence by which they are intended to be proved such as:-
 - (a) for restitution of conjugal rights the date or time from which and the circumstances under which the other spouse i.e., the respondent had withdrawn from the Society of the Petitioner.
 - (b) for decree of nullity of marriage under Sections 12(1) (c) 12(1) (d) the material particulars and circumstances of force or fraud and the facts with time of discovery of such force or fraud and whether the marital intercourse took place or not with the consent of the Petitioner after the discovery of such facts.
 - (c) for a decree of Judicial separation under Section 10(1) and divorce under Section 13(1) (i) on the ground that the other party had voluntary sexual intercourse with any person other than his or her spouse – the name, occupation and place of residence of such person or persons so far they can be ascertained and the specified particulars of such acts of sexual intercourse as far as practicable.
 - (d) (i) for alleged desertion the date and time and the circumstances in which it started. (ii) for cruelty-either mental or physical the specific acts or bundle of facts constituting cruelty specifying the place and occasion where and when such acts were committed.
 - (e) for unsoundness of mind or mental disorder-the nature of such mental condition and the time when it began to manifest itself and the curative steps taken with the period of treatment.
 - (f) for virulent and incurable form the leprosy or venereal diseases in communicable form-when such ailment began to manifest and the nature and the period of curative steps taken.
 - (g) for the relief on the grounds specified in Section 13(1) (vi), the date of renunciation and the particulars of the religious order which the other spouse has entered into.

- (h) for the relief on the grounds specified in Section 13(1) (vii), the time and the place where the other spouse was last seen or heard of being alive and the steps taken, if any, to ascertain his or her whereabouts;
 - (i) for the relief on the grounds of rape or sodomy or bestiality, the occasion, place and the names and address of the persons or the particulars of beast involved in the commission of such acts. In case of conviction or criminal proceedings for committing rape or sodomy, the particulars thereof;
 - (j) for relief under Section 13 (2) (iii) of the Act, particulars of decree under Section 18 of the Hindu Adoption and Maintenance Act, 1956 or order under Section 125 of the Criminal Procedure Code, 1973 together with a further statement supported by affidavit that since after the passing of such decree or order, cohabitation between the spouse has not been resumed for one year or upwards;
 - (k) for the relief under Section 13(2) (iv) – the date of birth of the wife or the particulars showing the age of the wife at the time of the marriage together with the date or time and the place of repudiation with its mode:
- (viii) the particulars of the property as mentioned in Section 27 of the Act.
- (ix) the relief or reliefs prayed for.

8. Necessary parties. – (a) In every petition for divorce or Judicial separation on the ground that the other spouse/respondent is living in adultery or has committed adultery with any person, after solemnization of the marriage the petitioner shall make such adulterer or adulteress a co-respondent. The petitioner may however, apply to the court by an application supported by affidavit for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds:-

- (i) that the name of such person is unknown to the Petitioner although he has made all efforts for discovery;
 - (ii) that such person is dead;
 - (iii) that the Respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom adultery has been committed;
 - (iv) for any other sufficient reason that the court may deem fit to consider.
- (b) In every petition under Section 13 (2) (i) of the Act the petitioner shall make "the other wife" mentioned in that section a co-respondent.

(c) In every petition under Section 11 of the Act, the Petitioner shall make the spouse alleged to be living at the time of the marriage as Co-respondent if the relief is sought on contravention of Section 5 (1) of the Act.

9. Affidavit for non-collusion. – Every petition (Excepting petitions under Section 11) shall be accompanied by an affidavit to the effect that it is not presented or prosecuted in collusion with the respondent.

10. Affidavit for non-condonation. – Where the relief is sought on the ground specified in Section 10 (1) or under Section 13(1) (i) of the Act or where the ground is for cruelty, the petition shall be accompanied by an affidavit to the effect that the petitioner has not, in any manner, been accessory to or connived at the act or acts complained of and that the Petitioner has not condoned the act or acts complained of and has not condoned the cruelty.

11. Affidavit of non-cohabitation. – Every petition under Section 13 (1-A) (i) of the Act shall be accompanied by an affidavit made by the Petitioner that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or more after the passing of a decree for Judicial separation between the parties.

12. Affidavit for non-restitution of conjugal right. – Every petition under Section 13 (1) (ii) of the Act shall be accompanied by an affidavit made by the Petitioner to the effect that there has been no restitution of conjugal rights between the parties to the marriage for a period of one year or more after the passing of a decree for conjugal rights between the parties.

13. Affidavit for mutual consent for divorce. – Every petition filed jointly by the spouses under Section 13 B (1) of the Act shall be accompanied by an affidavit sworn jointly by the spouses to the effect that they have been living separately for a period of one year or and they have not been able to live together and that they have mutually agreed for dissolution of the marriage.

14. Verification of the petition. - Every petition under the Act shall be verified in respect of the statements contained in the petition by the petitioner or some other competent person on behalf of the petitioner in the manner required by the Code.

15. Application for leave under Section 14 of the Act. – (1) The application for leave shall be filed accompanied by the original petition intended to be filed for divorce under the Act. In support of the application for leave under Section 14 of the Act there shall be filed an affidavit made by the petitioner setting out the particulars of exceptional hardship or exceptional depravity alleged, whether there was any previous application under the said section, whether there are living children of the marriage with particulars of

their age, sex and custody, whether any, attempts were made for reconciliation with the result and any other circumstances which may assist the Court in deciding the question, whether there is reasonable probability of a reconciliation between the parties.

(2) Notice of the application together with the Original petition for divorce shall be served on the respondent who may contest the same by filing affidavit in opposition.

(3) The leave matter may be decided on the basis of Affidavit and counter affidavit. But in exceptional cases the Court may, if necessary, order a deponent to be cross-examined on his or her affidavit.

(4) When the Court grants leave, the petition for divorce shall be deemed to be filed duly on the date of the said order provided proper court fee thereon is paid and other requirements fulfilled within the time allowed by the Court.

16. Notice. – The Court shall issue notice to the respondent or co-respondent if any, being accompanied by a copy of petition, requiring, unless the Court otherwise directs, the respondent or co-respondent to file his or her written statement in court or before the date fixed in the notice. Every petition and notice under the Act shall be served upon the party intended thereby in the manner provided for summons under Order V of the Code:

Provided that the court may dispense with such service altogether if it deems necessary or expedient to do so.

17. Written statement in answers to petitions by respondents. – The provisions of Order VIII of the Code shall apply mutatis mutandis to the written statement, if any, presented by the respondent in answer to the petition. Where a counter-claim is made in terms of Section 23-A of the Act it shall comply with the Rules applicable to petitions on the like grounds.

18. Mode of taking evidence. – The witnesses in all proceedings before the court where their attendance can be had, shall be examined orally and if any party may offer himself or herself as a witness and shall be examined, cross-examined and re-examined like any other witness:

Provided that the parties shall be at liberty to verify the respective cases in whole or in part by affidavit, but the deponent in every such affidavit shall on the application of the opposite party or by direction of the Court be subjected to be cross-examined by or on behalf of the opposite party, orally and after such cross-examination may be re-examined by or on behalf of the party by whom such affidavit was filed.

19. Costs. – Unless otherwise directed by the court, the cost of the petition under the Act shall be costs as taxed in a suit.

20. Order as to costs. – The award of costs shall be within the discretion of the court.

Whenever in any petition any alleged adulterer or adulteress has been made a correspondent or any such party have been impleaded as per Section 23-A of the Act and the adultery has been established the court may order co-respondent or the party impleaded to pay the whole or any part of the cost of such proceedings:

Provided that the co-respondent shall not be ordered to pay the costs:-

- (i) if the respondent was at the time of adultery living apart from her husband and leading the life of a prostitute;
- (ii) if the co-respondent had not, at the time of adultery, reason to believe the respondent to be a married person;
- (iii) if the allegation of charge of adultery against the person impleaded under Section 23-A of the Act is found to be baseless or not proved, rather, in that case the person making such allegation shall be asked to pay costs to the party impleaded.

21. Application for alimony and maintenance. – Every application for maintenance pendente lite permanent alimony and maintenance or for custody, maintenance and education expenses of minor children shall be supported by an affidavit and shall state the average monthly income of the petitioner and the Respondent, the source of their income, particulars of other moveable and immoveable property owned by the spouses jointly and severally, the details of their liability and dependents, if any, with the names and ages of such dependence.

22. Supply of certified copy of the decree to the parties. - (1) In every case where a marriage is dissolved by decree of divorce; the court passing the decree shall give a copy thereof free of cost to each of the parties as per Section 23 (4) of the Act. The copy so supplied shall be authenticated as "true copy" by the court passing the decree.

(2) A register shall be maintained in the court where the particulars of decree shall be incorporated and signatures of the parties or their Advocates or agents shall be obtained in token of their having received a copy of the decree.

By Order,

REGISTRAR GENERAL

The 17th December, 2013.

**GUIDELINES FOR DESIGNATING AN ADVOCATE AS SENIOR ADVOCATE BY
HIGH COURT OF MEGHALAYA UNDER THE PROVISIONS OF SECTION 16 (2)
OF THE ADVOCATES ACT, 1961.**

No.HCM.II/430/2013/6023. The High Court of Meghalaya may designate an Advocate as Senior Advocate, if in its opinion by virtue of his ability, standing at the Bar or special knowledge or experience in law, the said Advocate is deserving of such distinction.

2. Such designation as Senior Advocate shall be considered on the written proposal made by-

(i) the Chief Justice of the High Court of Meghalaya ; or

(ii) any sitting Judge of the High Court of Meghalaya ; or

(iii) an Advocate General of the State of Meghalaya provided he himself is a Senior Advocate ; or

(iv) three existing Senior Advocates of the High Court of Meghalaya

3. No person shall be eligible to be designated as Senior Advocate unless-

(a) he has completed the age of 35 years ;

(b) has a minimum of ten years standing as an advocate of which five years practice should be in the High Court of Meghalaya

(c) has the annual income of not less than the minimum amount on which the income tax is payable in non Tribal areas ;

(d) some reported cases have been argued by him.

4. While calculating the aforesaid standing of ten years, the period spent by a Judicial Officer during his service career shall be taken into consideration,

5. The proposal shall be in the form prescribed.

6. Consent of the concerned Advocate :

So far clauses (i) and (ii) of Rule.2 are concerned, a proposal may be initiated after ascertaining the inclination of the Advocate concerned. So far clauses (iii) and (iv) of Rule 2 are concerned, prior consent of the Advocate concerned shall be appended to along with the proposal.

7. Immediately on receipt of the proposal, the same shall be entered in a Register maintained in the Registry,

8. Consideration of the proposal by the High Court :-

(a) The proposal for designation of an Advocate as Senior Advocate shall be considered at the meeting of the Full Court except in cases mentioned in Rule 8 (c). It shall be accepted only if in such meeting not less than two third of the total number of Judges present are in favour of accepting the proposal.

(b) A proposal once rejected, shall not be considered again for designation as Senior Advocate, unless two years have expired since the date of such consideration.

(c) In case of persons holding the office of Advocate General of Meghalaya, the designation of such Advocate as Senior Advocate shall be made by the Chief Justice of High Court of Meghalaya.

9. Designation of Senior Advocate shall be liable to be cancelled after due notice in the event of it being found that he has violated any or all of the provisions of the Rules prescribed by the Bar Council of India under Sections 16(3) and 49(1)(g) of the Act as provided at Annexure "A" of these rules.

10. Upon an Advocate being designated as Senior Advocate, or on cancellation of such designation, the Registrar General shall communicate the same to the Supreme Court of India, the Secretary to the Bar Council of India, the Secretaries of Bar Council of all the States in India, the Advocate General of the State of Meghalaya, all the District & Sessions Judges subordinate to the High Court of Meghalaya and to the Advocate concerned.

11. A record of all such decisions shall be maintained in the Registry of the High Court.

12. On notification of these guidelines, the earlier/previous Rules will stand repealed.

FORM OF PROPOSAL FOR DESIGNATION AS SENIOR ADVOCATE

1. Name of the Advocate :
2. Permanent Address :
3. Educational Qualification :
4. Date of birth :
5. Date of enrolment as Advocate :
and where enrolled.
6. Number in the Roll of Advocates :
maintained by the State Bar Council
and date thereof.
7. Is the Advocate under proposal :
an assessee under the Income Tax Act
in respect if of his professional income.
If so, give details of the income assessed
for the last three years and permanent
Income Tax A/C Number.
8. Other information (optional), :
if any, including legal aid work
publication of books, journals,
participation in Seminar/Conference,
association with any Faculty of
Law etc. etc.

Dated:**SIGNATURE OF PROPOSER**

I hereby express and give my consent to be designated as Senior Advocate by the High Court of Meghalaya.

Dated this day of

SIGNATURE OF THE ADVOCATE CONCERNED

By order,

REGISTRAR GENERAL

The 7th January, 2014.

No.HCM.II/120/2013/33.

As per Notification No.K-13034/01/2013-US.I dated 2nd January, 2014 received from Joint Secretary to the Government of India, Ministry of Law and Justice, (Department of Justice) wherein the President of India is pleased to appoint Shri. Justice Sudip Ranjan Sen, Additional Judge High Court of Meghalaya to be Judge of the High Court of Meghalaya and thereby Hon'ble Mr Justice Sudip Ranjan Sen has accordingly assumed charge as Judge of the High Court of Meghalaya in the forenoon of 7th January, 2014.

Registrar General